



APPEALS PANEL MEETING – 30 JANUARY 2001

**OBJECTION TO TREE PRESERVATION ORDER NO. 63/00
LAND OF 30 BOURNEMOUTH ROAD, LYNDHURST**

TREE OFFICERS REPORT

1. TREE PRESERVATION ORDER HISTORY

- # 1.1 Tree Preservation Order (TPO) No. 63/00 was made on 16 October 2000. The TPO plan and first schedule are attached as Appendix 1. The TPO protects two Yew trees, denoted T1 and T2, growing in the front garden adjacent to the access drive of 30 Bournemouth Road, Lyndhurst.
- 1.2 The TPO was made following notification from the landowner, Mr Mountain, to fell the two trees which stand within the Lyndhurst Conservation Area.

2. OBJECTION

- # 2.1 Following service of the TPO, a letter objecting to the protection of T2 was received from Mr Mountain dated 25 October 2000. This is attached as Appendix 2. In addition, the Council issued a decision refusing consent to fell the two Yew trees since they were now subject to the TPO.
- 2.2 The reason that Mr Mountain has stated that he wishes to fell the tree T2 is because of his concern that damage might be caused by the tree's roots, to a sewer which passes beneath it.
- 2.3 A number of telephone calls and a meeting were held with Mr Mountain and the Council's tree team leader Mr Wilson to discuss his concerns. Mr Wilson offered to undertake a CCTV survey of the sewer to better assess the likely risk. Mr Mountain felt that no matter what the survey might show, his concerns for potential damage would remain.
- 2.4 Following this meeting and correspondence, Mr Mountain confirmed that his concerns about potential damage remained and he therefore still wished to fell the tree growing nearest the house (T2).

3. THE YEW TREES

- 3.1 The two Yew trees stand in the front garden of 30 Bournemouth Road and are readily visible from the main road serving this access to Lyndhurst and as such make a valuable contribution to the appearance of the street scene. Both trees appear in good health, although T2 has sparser foliage than T1.

- 3.2 From time to time, it may be necessary to trim the branches in order to ensure the trees do not cause an obstruction to the property. Apart from this, there is little other pruning work necessary to this type of tree and they both have sufficient space for the branches to grow.
- 3.3 Yew trees are a potentially long-lived species and, with appropriate management these trees could continue to grow safely for tens if not hundreds of years.

4. FINANCIAL IMPLICATIONS

- 4.1 If TPO 63/00 is confirmed to include either or both the Yew trees, there will be the cost of administering the service of the confirmed Order and any subsequent tree work applications.
- 4.2 If TPO 63/00 is confirmed, compensation may be sought in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the Order or of the grant of such consent which is subject to condition. However, no compensation will be payable for any loss of development or other value of the land, neither will it be payable for any loss or damage which was not reasonably foreseeable

5. ENVIRONMENTAL IMPLICATIONS

- 5.1 The premature removal of one of these trees and the lack of a requirement to replant will be detrimental to the appearance of the area.

6. CRIME AND DISORDER IMPLICATIONS

- 6.1 There are no crime and disorder implications arising from this report.

7. HUMAN RIGHTS ACT IMPLICATIONS

- 7.1 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions but is capable of justification under Article 1 of the First Protocol as being in the public interest (the amenity value of the tree) and subject to the conditions provided for by law (Town and Country Planning Act 1990) and by the general principles of international law
- 7.2 In so far as the trees are on or serve private residential property the making or confirmation of a Tree Preservation Order could interfere with the right of a person to respect for his family life and his home but is capable of justification as being in accordance with the law and necessary in a democratic society for the protection of the rights and freedoms of others (Article 8).

8. RECOMMENDATION

- 8.1 It is therefore recommended that TPO 63/00 be confirmed without amendment to include both Yew trees.

Further Information:

Bryan Wilson/Dave Cashman
Tree Team

Telephone: 02380 285330

G:PPI/Veronica/Admin/Committee/Jan-2001 -16 January 2001

AP300101

Background Papers:

Tree Preservation Order No. 63/00